

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
Martin J. WENSLEY et al.	)	
	)	Examiner: D. P. Erez
Application No.: 10/057,197	)	
	)	Group Art Unit: 3773
Filed: October 26, 2001	)	
	)	Confirmation No.: 1701
For: AEROSOL GENERATING	)	
METHOD AND DEVICE	)	
	)	
	)	

Mail Stop AF  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

**TERMINAL DISCLAIMER TO OBVIATE PROVISIONAL DOUBLE  
 PATENTING REJECTIONS OVER PENDING "REFERENCE" APPLICATIONS**

The owner, Alexza Pharmaceuticals, Inc., of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 11/488,302 filed 7/18/2006; pending **reference** Application Number 11/451,853 filed 6/13/2006; pending **reference** Application Number 11/479,361 filed 6/30/2006; pending **reference** Application Number 11/507,986 filed 8/22/2006; pending **reference** Application Number 11/479,509 filed 6/30/2006; pending **reference** Application Number 11/501,246 filed 8/7/2006; pending **reference** Application Number 10/633,877 filed 8/4/2003 (each hereinafter a "**reference** application"), as such term is defined in 35 U.S.C. § 154 and 173, and as shortened by any terminal disclaimer filed prior to its grant. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on a **reference** application is commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154 and 173 of any patent granted on a pending

**reference** application, as shortened by any terminal disclaimer filed prior to its grant, in the event that any such patent granted on the **reference** application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record.

The undersigned hereby authorizes the charge of the terminal disclaimer fee of \$70.00 or any deficiency of fees to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date December 24, 2008

/Katherine Lobel-Rice/

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